



Information Alert

National Conference of State Legislatures Office of State-Federal Relations

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S.A.F.E. Mortgage Licensing Act

State Legislators must adopt State-licensing system for loan originators within the next year

On July 30th, 2008, the President signed the Housing and Economic Recovery Act of 2008 (H.R. 3221) into law to stabilize the housing market and help alleviate the financial crisis. Title V of the Act, the Secure and Fair Enforcement (S.A.F.E.) for Mortgage Licensing Act of 2008, affirms that any residential mortgage loan originator must be either State-licensed by August 1, 2009, or federally registered. These loan originators must also register with the Nationwide Mortgage Licensing System and Registry to increase uniformity and reduce fraud. The Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) are currently developing model legislation that incorporate the necessary requirements for State implementation of the S.A.F.E. Mortgage Licensing Act.

What States must do:

The S.A.F.E. Mortgage Licensing Act requires all States to adopt a system of licensing for all residential loan originators. States that want to maintain originator supervisory authority must meet the following minimum requirements:

- Provide effective supervision and enforcement of such law, including suspension, termination or nonrenewal of a license for a violation of State or Federal law.
- Ensure all State-licensed loan originators operating in the State are registered with the Nationwide Mortgage Licensing System and Registry.
- Regularly report violations of such law, as well as enforcement actions and other relevant information to the Nationwide Mortgage Licensing System and Registry.
- Have due process in place for challenging information contained in the Nationwide Mortgage Licensing System and Registry.
- Establish a mechanism to assess civil money penalties for individuals acting as mortgage originators in their State without a valid license or registration.
- Establish minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator, or establish
- a recovery fund paid into by the loan originators.

To be licensed within a State, loan originators must not have any felonies over the past seven years, never had a felony involving fraud or dishonesty, never had a loan originator license revoked, must demonstrate financial responsibility and general fitness, score 75% or better on a national test created by the Nationwide Mortgage Licensing System and Registry and take eight hours of continuing education annually. The model legislation being developed by CSBS and AARMR includes all requirements listed above.

States have until August 1, 2009, to successfully meet these standards as defined in H.R. 3221. Any State legislature that meets biennially will have two years to enact State license legislation, while the Department of Housing and Urban Development (HUD) may also grant a two-year extension for States making a good faith effort for incorporating a system of licensing. If, however, a State does not meet the threshold by the allotted deadline, HUD will create a backup licensing system to coordinate licensing and registration for loan originators for that State.

If you have questions regarding our concerns, please contact Jeff Hurley at 202-624-7753 / jeff.hurley@ncsl.org or Neal Osten at 202-624-8660 / neal.osten@ncsl.org.